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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

AMANDA B. JOHNSON,

PLAINTIFF,

v.

**SUTTELL AND HAMMER, P.S., a
corporation; and NICHOLAS R. FILER, an
individual,**

DEFENDANTS.

Case No. 3:19-CV-1383-AC

**DEFENDANTS' ANSWER AND
DEFENSES**

Defendants Suttell and Hammer, P.S. ("Suttell") and Nicholas R. Filer ("Filer")
(collectively "Defendants") answer Plaintiff's Complaint as follows

PRELIMINARY STATEMENT

1. Paragraph 1 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, Defendants admit that the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA") prohibits certain specified acts, and Defendants are without knowledge or information sufficient to form a belief as to truth or falsity of the remaining allegations in paragraph 1 of the Complaint, and therefore deny them.

2. Paragraph 2 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, Defendants admit that 15 U.S.C. § 1692 contains the quoted language, which speaks for itself, and Defendants are without knowledge or information sufficient to form a belief as to truth or falsity of the remaining allegations in paragraph 2 of the Complaint, and therefore deny them.

3. Paragraph 3 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, Defendants admit that 15 U.S.C. § 1692d, 15 U.S.C. § 1692e, and 15 U.S.C. § 1692f contain the quoted language, which speaks for itself, and Defendants are without knowledge or information sufficient to form a belief as to truth or falsity of the remaining allegations in paragraph 3 of the Complaint, and therefore deny them.

4. Paragraph 4 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, Defendants admit that the FDCPA prohibits certain specified acts, and Defendants are without knowledge or information sufficient to form a belief as to truth or falsity of the remaining allegations in paragraph 4 of the Complaint, and therefore deny them.

5. Paragraph 5 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, Defendants admit that 15 U.S.C. § 1692e lists conduct constituting a violation of that section, which speaks for itself, and Defendants are without knowledge or information sufficient to form a belief as to truth or falsity of the remaining allegations in paragraph 5 of the Complaint, and therefore deny them.

6. Paragraph 6 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, Defendants admit that the cited webpage contains the quoted text, which speaks for itself, and Defendants are without knowledge or information sufficient to form a belief as to truth or falsity of the remaining allegations in paragraph 6 of the Complaint, and therefore deny them.

7. Defendants deny the allegations in paragraph 7 of the Complaint.

8. Answering paragraph 8 of the Complaint, Defendants admit that they filed and served a lawsuit against Plaintiff on behalf of a client, that Plaintiff participated in the lawsuit, and Defendants' client obtained an arbitration award in its favor in that lawsuit. Except as expressly admitted, Defendants deny the allegations in paragraph 8 of the Complaint.

9. Defendants deny the allegations in paragraph 9 of the Complaint.

JURISDICTION, VENUE, AND DEMAND FOR JURY TRIAL

10. Paragraph 10 of the Complaint states a legal conclusion to which no response is required. To the extent a response is required, Defendants do not dispute this Court generally has jurisdiction over claims brought under the FDCPA.

11. Paragraph 11 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to truth or falsity of the allegations in paragraph 11 of the Complaint, and therefore deny them.

12. Paragraph 12 of the Complaint states a legal conclusion to which no response is required. To the extent a response is required, Defendants do not contest venue.

13. Paragraph 13 of the Complaint contains a jury demand to which no response is required. To the extent a response is required, Defendants do not contest Plaintiff's right to a jury "on any and all issues qualified for a jury trial."

CIVIL LIABILITY - RIGHT OF REMEDY

14. Paragraph 14 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, Defendants admit that 15 U.S.C. § 1692k(a), 15 U.S.C. § 1692k(a)(1), and 15 U.S.C. § 1692k(a)(2)(A) contain the quoted language, which speaks for itself.

PARTIES

15. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in paragraph 15 of the Complaint, and therefore deny them.

16. Paragraph 16 of the Complaint states a legal conclusion, to which no response is required. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to truth or falsity of the allegations in paragraph 16 of the Complaint, and therefore deny them.

17. Answering the allegations in paragraph 17 of the Complaint, Defendants admit that Suttell—a law firm—is a professional service corporation organized under the laws of the State of Washington, that its principal place of business is located at 3000 Northup Way Ste 200, Bellevue, WA 98004, and that it is registered to conduct business in the State of Oregon. Except as expressly admitted, Defendants deny the allegations in paragraph 17 of the Complaint.

18. Answering the allegations in paragraph 18 of the Complaint, Defendants admit that Filer—a lawyer—is an employee of Suttell and works principally from Suttell’s office located at 3000 Northup Way Ste 200, Bellevue, WA 98004. Except as expressly admitted, Defendants deny the allegations in paragraph 18 of the Complaint.

19. Paragraph 19 of the Complaint states a legal conclusion to which no response is required. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to truth or falsity of the allegations in paragraph 19 of the Complaint, and therefore deny them.

20. Answering the allegations in paragraph 20, Defendants admit that a substantial part of Suttell’s business and Filer’s work as an employee of Suttell involves representing clients seeking to recover amounts that are owed to them. Except as expressly admitted, Defendants deny the allegations in paragraph 20 of the Complaint.

21. Answering the allegations in paragraph 21, Defendants admit that a substantial part of Suttell’s business and Filer’s work as an employee of Suttell involves representing clients seeking to recover amounts that are owed to them. Except as expressly admitted, Defendants deny the allegations in paragraph 21 of the Complaint.

22. Paragraph 22 of the Complaint states a legal conclusion to which no response is

required. To the extent a response is required, Defendants are without knowledge or information sufficient to form a belief as to truth or falsity of the allegations in paragraph 22 of the Complaint, and therefore deny them.

23. Answering the allegations in paragraph 23, Defendants deny they are liable to Plaintiff for the relief prayed for in Plaintiff's Complaint or any future amended Complaint. The allegation that "Plaintiff alleges that each act alleged herein, whether by a named Defendant, was expressly authorized or ratified in concert by the Defendants" is not a factual allegation to which a response is required. To the extent a response is required, Defendants deny the allegations in paragraph 23.

FACTUAL ALLEGATIONS

24. Answering the allegations in paragraph 24 of the Complaint, Defendants admit they filed a complaint against Plaintiff on behalf of their client Barclays Bank Delaware on March 15, 2019, in the Circuit Court for the State of Oregon for the County of Washington, as Case Number 19CV12250 ("State Court Action"). Except as expressly admitted, Defendants deny the allegations in paragraph 24 of the Complaint.

25. Answering the allegations in paragraph 25 of the Complaint, Defendants admit that paragraph 10 of the complaint in the State Court Action contains the quoted language, which speaks for itself. Except as expressly admitted, Defendants deny the allegations in paragraph 25 of the Complaint.

26. Answering the allegations in paragraph 26 of the Complaint, Defendants admit that paragraph 13 of the complaint in the State Court Action contains the quoted language, which speaks for itself. Except as expressly admitted, Defendants deny the allegations in paragraph 26 of the Complaint.

CLAIMS FOR RELIEF

**COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION
PRACTICES ACT, 15 U.S.C. § 1692E(2)(A)**

26. Answering the allegations in paragraph 26 of the Complaint, Defendants incorporate their responses to Complaint paragraphs 1 through and including 25 as though fully set forth herein.

27. Answering the allegations in paragraph 27 of the Complaint, Defendants admit that 15 U.S.C. § 1692e(2)(A) contains the quoted language, which speaks for itself. Except as expressly admitted, Defendants deny the allegations in paragraph 27 of the Complaint.

**COUNT II
VIOLATIONS OF THE FAIR DEBT COLLECTION
PRACTICES ACT, 15 U.S.C. § 1692E(5)**

28. Answering the allegations in paragraph 28 of the Complaint, Defendants incorporate their responses to Complaint paragraphs 1 through and including 27 as though fully set forth herein.

29. Answering the allegations in paragraph 29 of the Complaint, Defendants admit that 15 U.S.C. § 1692e(5) contains the quoted language, which speaks for itself. Except as expressly admitted, Defendants deny the allegations in paragraph 29 of the Complaint.

**COUNT III
VIOLATIONS OF THE FAIR DEBT COLLECTION
PRACTICES ACT, 15 U.S.C. § 1692E(10)**

30. Answering the allegations in paragraph 30 of the Complaint, Defendants incorporate their responses to Complaint paragraphs 1 through and including 29 as though fully set forth herein.

31. Answering the allegations in paragraph 31 of the Complaint, Defendants admit they filed a complaint against Plaintiff on behalf of their client Barclays Bank Delaware on March 15, 2019, in the Circuit Court for the State of Oregon for the County of Washington, as Case Number 19CV12250 (“State Court Action”). Except as expressly admitted, Defendants

deny the allegations in paragraph 31 of the Complaint.

32. Answering the allegations in paragraph 32 of the Complaint, Defendants admit that 15 U.S.C. § 1692e(10) contains the quoted language, which speaks for itself. Except as expressly admitted, Defendants deny the allegations in paragraph 32 of the Complaint.

33. Defendants deny the allegations in paragraph 33 of the Complaint.

34. Except as expressly admitted herein, Defendants deny the allegations in the Complaint and the whole thereof.

DEFENSES

Without assuming any burdens that properly rest with Plaintiff, Defendants assert the following defenses:

35. The Complaint fails to state a claim upon which relief can be granted.

36. Plaintiff has suffered no injury and lacks standing to bring this suit.

37. Any violations of the FDCPA by Defendants (which are denied) are the result of bona fide errors.

38. Defendants reserve the right to assert additional defenses that become known through investigation and discovery.

WHEREFORE, Defendants pray as follows:

A. That Judgment be entered in favor of Defendants on Plaintiff's Complaint;

B. That Defendants be awarded fees and costs to the full extent permitted by law;

and

C. That the Court award Defendants such other relief as is just and proper under the circumstances.

DATED this 30th day of September, 2019.

DAVIS WRIGHT TREMAINE LLP

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **DEFENDANTS' ANSWER AND DEFENSES** on:

Amanda B. Johnson
11625 SW Teal Blvd. #E
Beaverton, OR 97007
Amandabjohnson114@gmail.com

Plaintiff

☒ by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to said Plaintiff's last-known address and deposited in the U.S. mail at Portland, Oregon on the date set forth below;

☐ by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to said Plaintiff's last-known address on the date set forth below;

☐ by emailing a copy thereof to said Plaintiff at her last-known email address as set forth above on the date set forth below.

Dated this 30th day of September, 2019.

DAVIS WRIGHT TREMAINE LLP

By s/ Kevin H. Kono

Kevin H. Kono, OSB #023528

Caitlin P. Shin, OSB #144313

Attorneys for Defendants